



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of: James P. Elia)
 Serial No.: 09/836,750) Group Art Unit: 1646
 Filed: April 17, 2001) Examiner: Elizabeth C. Kemmerer, Ph.D.
 For: METHOD FOR GROWING)
 MUSCLE IN A HUMAN HEART)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria,

VA 22313-1450 on July 27, 2004

Michael W. White

Signature

7/27/04

Date

**THIRD SUPPLEMENTAL
INFORMATION DISCLOSURE STATEMENT**

Mail Stop Non-Fee Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

This Third Supplemental Information Disclosure Statement follows the Second Supplemental Information Disclosure Statement filed on June 17, 2003.

Applicant wishes to call the Examiner's attention to publications (References AO-AT) listed in the Other Art section of the enclosed PTO Form 1449A.

The publications cited are the same as those submitted and discussed in the Response to Final Rejection mailed July 27, 2004, in related patent application Serial No. 09/794,456. The Examiner for the instant application and for the aforementioned application Serial No. 09/794,456 is the same.

Applicant cites the publications because they may also pertain to the instant application, and

consideration by the Examiner could expedite the prosecution of this application.

Reference AO, the Pediatric Transplantation publication, is cited to demonstrate that cell handling and preparation techniques have been well known for decades. Evidence is presented therein that stem cells harvested from bone marrow and from blood of patients have long been known and isolated as part of national blood bank programs. The Strauer et al. publication (of record) includes such bone marrow stem cells.

Reference AP, the Wollert et al. publication, is cited to demonstrate that bone marrow processing is long established in the medical art; that high pressure injection of cells, such as reported by Strauer, is not required to achieve heart repair; and that providing a sufficient number of cells and preventing remigration are not insurmountable problems.

Reference AQ, the Transplantation publication, is cited to illustrate that cell separation utilizing the Ficoll technique has been known in the medical art for years. For example, this technique was reported in 1971.

Reference AR, the Kocher et al. publication, is cited to explain that “vessels,” mentioned as Reference 30 in the August 28, 2001 Orlic et al. publication relied upon by the Examiner, refers to a capillary network incapable of supporting a “complete functional repair.”

Reference AS, the Merriam-Webster Online Dictionary, defines the word “form” to mean “to become formed or shaped, or to come into existence.” Thus, the instant claims containing the terms “forming a new artery” and “forming new cardiac muscle” are so defined.

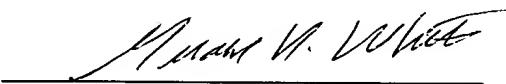
Reference AT, the NIH report, is cited to demonstrate that “new” arteries is used in the medical art and thus well understood by those skilled in the art.

Applicant certifies, in the attached Certification, that all of the references cited in this Third

Supplemental Information Disclosure Statement were located during preparation of the above-mentioned Response to Final Rejection in related patent application Serial No. 09/794,456 and thus were discovered less than three (3) months prior to the date set forth below.

Respectfully submitted,

Date: July 27, 2004



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CERTIFICATION

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Gerald K. White, Attorney for Applicant, hereby state that the references cited in this Third Supplemental Information Disclosure Statement (“IDS”) were first discovered by me following the June 1, 2004 Final Office Action for related patent application, Serial No. 09/794,456. Such discovery time is less than three (3) months prior to the date of this Third Supplemental Information Disclosure Statement.

I further state that no item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge, after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 C.F.R. 1.56(c) more than three (3) months prior to the filing of this statement.

Respectfully submitted,

Date: July 27, 2004

Gerald K. White
Reg. No. 26,611



**List of Patents and Publications For
Applicant's 3rd Supplemental
Information Disclosure Statement
Page 1 of 1**

Form PTO-1449 (Modified)
(Use several sheets if necessary)

Docket No: 1000-10-C01

Serial No.: 09/836,750

Group No.: 1646

Filing Date: April 17, 2001

Examiner: Elizabeth
Kemmerer

Applicant: James P. Elia

Reference Designation U.S. PATENT DOCUMENTS							
Examiner Initial		Document Number	Date	Name	Class	Sub-Class	Filing Date (if appropriate)
Foreign Patent Documents							
		Document Number	Date	Country	Class	Sub-Class	Translation Yes No
Other Art (including author, title, date, pertinent pages, etc.)							
AO	Pediatric Transplantation, 2002 ISSN 1397-3142, 465-474, "Milestones in the development of pediatric hematopoietic stem cell transplantation – 50 years of progress"						
AP	Lancet 2004 July 10, 2004; 364: (9429) 141-148, "Intracoronary autologous bone-marrow cell transfer after myocardial infarction: the BOOST randomized controlled clinical trial"						
AQ	Transplantation, 1971, Vol. 11, No. 5, 487-488, "Separation of Peripheral Leukocytes by Ficoll Density Gradient Centrifugation"						
AR	Nature Medicine, April 2001, Volume 7, No. 4, 430-436 "Neovascularization of ischemic myocardium by human bone-marrow-derived angioblasts prevents cardiomyocyte apoptosis, reduces remodeling and improves cardiac function"						
AS	Merriam-Webster Online Dictionary						
AT	NIH Stem Cell Information, Report on StemCells, June 17, 2001, Chapter 9, 87-92, "Can Stem Cells Repair a Damaged Heart?"						
Examiner				Date Considered			
Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							